

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

SCOTT MARLIN MOREY,

Case No. 18-CV-2331 (NEB/LIB)

Petitioner,

v.

ORDER

JEFF TITUS, et al.,

Respondent.

This matter is before the Court on a Report and Recommendation (“R&R”) issued by United States Magistrate Judge Leo I. Brisbois on September 19, 2018 [ECF No. 11]. The R&R recommends that Petitioner Scott Marlin Morey’s petition for habeas corpus relief pursuant to 28 U.S.C. § 2254 be dismissed without prejudice for failure to exhaust his state remedies. On October 9, 2018, Morey filed a Response to Magistrate’s Report and Recommendation [ECF No. 13], which this Court accepts and interprets as a timely objection to the R&R. The Court has reviewed the matter de novo, as required by 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). The Court overrules the objections and accepts the recommendations for the reasons set forth in the R&R. In addition, because Morey has not shown that reasonable jurists would find the Court’s disposition in this matter to be debatable or wrong, he will not be granted a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Based upon the foregoing, and on all the files, records, and proceedings herein, it is hereby **ORDERED** that:

1. The Petition for a Writ of Habeas Corpus of Petitioner Scott Marlin Morey [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust state remedies.
2. Respondent Lori Swanson's Motion to Dismiss [ECF No. 4] is **DENIED AS MOOT**.
3. Petitioner's Motion for an Extension of Time [ECF No. 10] is **DENIED**.
4. No certificate of appealability will issue.

Let Judgment Be Entered Accordingly.

Dated: October 26, 2018

BY THE COURT:

s/Nancy E. Brasel
Nancy E. Brasel
United States District Judge